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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,565	10/20/2000	William F. Brooks Jr.	40234/MEG/A484	7788

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EXAMINER

GORT, ELAINE L

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/693,565

Applicant(s)

BROOKS JR. ET AL.

Examiner

Elaine Gort

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10,17-20,25 and 26 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10,17-20,25 and 26 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-10, 17-20, 25 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the amount of cash received" in line 5. There is insufficient antecedent basis for this limitation in the claim.

It is unclear in claim 4 line 2 if "a safe" is referring to the same safe as in claim 1 line 4. This may be overcome by stating "a second safe".

It is unclear in claim 4 lines 3 and 4 regarding "the safe" as to which safe is being referred. This may be overcome by stating "the second safe".

It is unclear in claim 4 line 4 regarding "the amount of cash received" as this is also claimed in claim 1 line 5. This may be overcome by stating "a second amount of cash received".

It is unclear in claim 7 line 5 regarding "on cash". It is unclear if this is relating to the cash claimed in claim 1 line 6 or another cash.

Claim 9 recites the limitation "the end" in line 7. There is insufficient antecedent basis for this limitation in the claim.

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It is unclear in claim 17 line 12 what is meant by the sequence numbers being "unrelated to any date and/or time information". This is unclear for three reasons. First the Applicant's invention relates to updating the numbers to match at the end of a day, as shown in figure 4 and therefore these numbers are related to a date and time. Second, the term "sequence number" implies an order relating to time or events over time. Finally it is unclear how these sequence numbers are unrelated to any date or time as dependent claim 18 line 6 claims the updating of the sequence number at the end of a day to match the alternate sequence number which Examiner construes to be related to a date and/or time.

Claim 17 recites the limitation "the amount of cash collected" in line 24. There is insufficient antecedent basis for this limitation in the claim.

The Examiner finds that because the claims are indefinite under 35 U.S.C. §112 2nd paragraph, it is impossible to properly construe claim scope at this time. See *Honeywell International Inc. v. ITC*, 68 USPQ2d 1023, 1030 (Fed. Cir. 2003) ("Because the claims are indefinite, the claims, by definition, cannot be construed."). However, in accordance with MPEP §2173.06 and the USPTO's policy of trying to advance prosecution by providing art rejections even though these claim are indefinite, the claims are construed and the art is applied *as much as practically possible*.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 2, 4-10, 17-20, 25 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Brooks, Jr. et al. (US Patent 6,067,530).

Brooks, Jr. et al. disclose the claimed cash control system comprising: a safe assembly (see figure 1A; such as safe 24 which cashiers feed money) with a currency reader; a memory with software that updates and stores a pair of identifiers (system generates and stores identifiers including for example begin and end date and time stamps of when data was gathered, see column 19 lines 55+); a central control unit configured to receive deposit information from the safe assembly and to generate and transmit deposit reports and transmit a pair of identifiers that distinguish deposit

information accumulated during an accounting period before a predetermined event and deposit information accumulated during the accounting period after the predetermined event (system generates and transmits deposit reports with identifiers including for example begin and end date and time stamps of when data was gathered, see column 19 lines 55+); and a cash information server configured to receive the deposit information and identifiers from the central control unit and to identify the amount of cash collected by the business establishment during the accounting period (deposit information is received for accounting use).

Functional recitation(s) used in apparatus claims (e.g. claim 1 line 4 “for securing cash...”; claim 1 line 5 “for determining the amount of cash...”; claim 1 line 8 “for updating a pair of identifiers...”; claim 1 line 12 “for the pair of identifiers ...”; claim 1 line 22 “wherein the central control unit, using the control...”) are given little patentable weight because they fail to add any structural limitations and are thereby regarded as intended use language. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In re Casey, 152 USPQ 235 (CCPA 1967); In re Otto, 136 USPQ 458, 459 (CCPA 1963).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. In the event Brooks, Jr. et al. discussed above is found to not inherently include a networked computer system, claims 1-10, 17-20, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks, Jr. et al. in view of Examiner's Official Notice.

Brooks, Jr. et al. discloses the claimed device but is silent regarding networked communication among all the parties involved with the deposit. Examiner takes official notice that it is notoriously old and well known in the art of data communication to utilize networked computer systems to produce low cost, accurate and speedy communication of data. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cash control system of Brooks, Jr. et al. with networked computers of Examiner's official notice, in order to provide low cost, accurate and speedy communication of the deposit data among the parties of interest.

Regarding claim 3, the Examiner takes Official Notice that the use of MICR (magnetic-ink character recognition) for electronically communicating data is notoriously old and well known in the art of data communication and the use of MICR is especially common for use in identifying bank checks and it would have been obvious to use MICR

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to produce low cost, accurate and speedy data communication of deposited check information. It would have further been obvious to one having ordinary skill in the art at the time the invention was made to provide the cash control system of Brooks, Jr. et al. and Examiner's official notice, as modified above with MICR as taught by Examiners Official Notice in order to provide low cost, accurate and speedy communication of deposited check data among the parties of interest.

Allowable Subject Matter

7. Examiner notes that claims 1-10, 18, 19, 25 and 26 may be allowable (possibly contain allowable subject matter) if Applicant were to overcome the 112 rejections and modify all functional language to be positively recited. For example purposes only, applicant could make modifications to all existing functional language. The following examples illustrate some possible modifications to some of the existing functional language:

Claim 1 line 4 "for securing cash..." could be modified to positively recite "a safe securing cash..."

Claim 1 line 5 "for determining the amount of cash..." could be modified to positively recite "to determine..."

Claim 1 line 8 "for updating a pair of identifiers..." could be modified to positively recite "the control software updates a pair of identifiers..."

Claim 1 line 12 "for the pair of identifiers ..." could be modified to positively recite "identifiers do not contain values including a date and/or time..."

Claim 1 line 22 "wherein the central control unit, using the control..." could be modified to positively recite "the central control unit uses the control software to indicate whether..."

Examiner further notes that modifying identifiers or sequence numbers to not contain values including a date and/or time could also lead to patentable subject matter.

The above examples are for example purposes only and do not cover all functional recitations in the claims.

Response to Arguments

8. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., identifier values being unrelated to a date and/or time of the predetermined event; and sequence numbers being unrelated to any date and/or time information) which are not positively recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). See Examiners explanation regarding functional language discussed above.

Applicant has argued that the claims have been amended to explicitly state the functional language within the claims. Examiner maintains that functional language still remains. See Examiner's comments above with examples of how to positively recite this functional language.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is (703)308-6391. The examiner can normally be reached on Monday through Thursday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703)308-5183. The fax phone number for the organization where this application or processing is assigned is (703)872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

A handwritten signature in black ink, appearing to be 'EG' followed by a stylized flourish.

Elaine Gort
Examiner
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March 6, 2005